

a guide for everybody



See the person



The Disability Discrimination Act 1995

The Disability Discrimination Act aims to end the discrimination which many disabled people face. The Act gives disabled people rights in the areas of:

- access to goods, facilities and services;
- buying or renting land or property;
- employment.

Some of these rights were introduced from 2 December 1996, for example, all the rights for employees and job applicants; others are being introduced over a period of time.

For service providers (e.g. businesses and organisations):

- since **December 1996** it has been **unlawful to treat disabled people less favourably** than other people for a reason related to their disability;
- since **1 October 1999** they have had to make **reasonable adjustments** for disabled people, such as providing extra help or making changes to the way they provide their services;
- from **2004** they may have to make reasonable adjustments to the **physical features** of their premises to overcome physical barriers to access.

In addition the Act:

- requires schools, colleges and universities to provide information for disabled people;
- allows the Government to set minimum standards so that disabled people can use public transport easily.

Northern Ireland

The Act also applies to Northern Ireland.

This booklet gives general guidance only and should not be treated as a complete and authoritative statement of the law.

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A guide for everyone

The Disability Discrimination Act makes treating disabled people less favourably than other people, without justification, unlawful in areas such as buying goods, using services, finding somewhere to live and getting a job. This booklet will help disabled people to get to know and use their rights, and it will help everyone to understand their responsibilities so they can stay within the law.

1. Why have we got the Disability Discrimination Act?

Disabled people can find that, for no good reason, they aren't given the same opportunities as others. Perhaps through prejudice or not discussing matters with a disabled person, it's assumed he or she can't carry out a task or use a service. For example, an employer might turn down someone who can't hear well for a job involving using the phone without considering whether an adapted phone, for instance, would enable the applicant to do the job perfectly well.

This is an example of a disabled person being treated less well – not because they can't do something, but because someone happens to think they can't. The Disability Discrimination Act makes this kind of less favourable treatment, resulting from a person's disability, unlawful.



2. Who has rights and responsibilities because of the Disability Discrimination Act?

Disabled people have rights in the areas of:

- obtaining goods, services and facilities;
- buying or renting land or property;
- employment.

What is meant by disabled?

The definition in the Act is intended to cover people who would generally be regarded as disabled.

Under the Act, disability is defined as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. (For more information about this, please see section 7.)

Who has responsibilities?

Many people have the duty not to discriminate against disabled people. They include:

- organisations (no matter how large or small) and everyone involved in providing any kind of goods, facilities or services to the public (unless exempted – see section 3);
- those selling, renting or managing land or property;
- those involved in the area of employment (unless exempted – see section 5).

So what is discrimination?

Under the Disability Discrimination Act, discrimination occurs where:

- a disabled person is treated less favourably than someone else;
- and the treatment is for a reason relating to the person's disability; and
- this treatment cannot be justified.

Discrimination also occurs where:

- there is a failure to make a reasonable adjustment for a disabled person; and
- that failure cannot be justified.



3. Goods, facilities and services

What is covered?

All organisations that provide goods, facilities or services to the public, whether paid for or free, are covered by the Disability Discrimination Act – no matter how large or small they are. Those affected include hotels, shops, pubs, mail order or telephone order businesses, government departments, courts, employment agencies, local council services, law firms, doctors' clinics, churches and amenities such as parks.

Transport vehicles and education are **not** covered by this part of the Act.

When does discrimination take place?

If a disabled person meets with any of the following kinds of treatment, they are facing discrimination:

Service is refused or a customer is ignored because of a reason connected with his or her disability, whilst others are treated better.

For example:

A newsagent says people with learning disabilities from a nearby training centre can't use his shop to buy snacks at lunchtime because the attention they need delays service to other customers. He is discriminating against them because of their disability. This is unlawful.

A worse service is provided or the disabled person is served in an inferior way.

For example:

Martha has difficulty in managing to eat because of a disability. When she returns a second time to a restaurant, the waiter shows her to an out-of-the-way table, even though other customers are allowed to sit at unreserved tables with the sea view she enjoyed last time. The reason he is treating her less favourably is because of a disability and does not apply to the other customers. He is acting outside the law.

The terms of service are not as good as other people obtain. This includes charging more or imposing extra restrictions.

For example:

It would be unlawful to charge a disabled person a higher deposit because of an unfounded belief that they were more likely not to complete the purchase.

A reasonable adjustment is not made so that disabled people can use a service.

More about reasonable adjustments

Where it is impossible, or unreasonably difficult, for a disabled person to use a service, a service provider must take **reasonable steps** to:

- change its practices (what it does), policies (what it intends to do) or procedures (how it plans to go about it). This could involve waiving a practice or amending a policy to allow exceptions or abandoning it altogether. Often, such a change involves little more than an extension of the courtesies which most service providers already show their customers.

For example:

A shop has a policy of not allowing dogs on its premises. It would be unlawful for the shop not to change this policy to allow an exception for disabled people accompanied by a guide dog.

- provide a reasonable alternative method for making their services available to disabled people, where a physical feature makes it impossible or unreasonably difficult to use these services.

For example:

A cinema has a steep flight of stairs at its front entrance, making it impossible or unreasonably difficult for visitors with a mobility impairment to have access to the cinema. A side entrance for staff use only is fully accessible and always open. The cinema decides to allow disabled people to use this side entrance.

- provide an auxiliary aid or service if that would enable or make it easier for disabled people to use their services. This might be a piece of equipment or just extra help from trained staff.



For example:

A petrol station decides that an assistant may help disabled people use the petrol pumps on request. It places a prominent notice at the pumps advertising the assistance and the hours that it is available.

At present, service providers do not have to make reasonable adjustments to physical features which make it difficult for disabled people to use their service. These duties will be introduced in 2004 though service providers do not have to wait until then to make changes. It is sensible to consider removing or altering physical features which create a barrier to access for disabled people while any other building work or refurbishment is taking place.

Is it ever allowable to treat a disabled person less favourably or not make reasonable adjustments?

The Disability Discrimination Act recognises that in a limited number of circumstances it is not always possible to give disabled people exactly the same service as other people. It might be possible for service providers to treat a disabled person less favourably or not make a reasonable adjustment if they reasonably believe that one of the following circumstances applies:

Health or safety – No one is required to do anything that would endanger the health or safety of any person, including the disabled person.

For example:

Winston is ten years old and has cerebral palsy. He was about to use the local swimming pool, when the new manager stopped him because he believed Winston was unable to swim. In the absence of further information this might have been within the law. But when an attendant who had taught Winston in a swimming class

explained he could swim, it would have been unlawful for the manager to continue to refuse him.

Making contracts – A trader might refuse to enter into a contract with someone who cannot understand the nature of the contract because of a disability. This does not mean that a trader can refuse service simply on the assumption that the disabled person cannot understand any kind of contract. It may only be complex ones that cause a problem.

For example:

A shopkeeper could refuse to rent a camcorder to Rob, who has Alzheimer's Disease, if he reasonably believes Rob does not understand he has to return it at the end of the week. But the shop is no longer justified when Rob's brother, with power of attorney, offers to undertake the contract.

Providing a service to others – A disabled person could be refused a service if it would mean the service could not be provided to others at all.

For example:

Barry's disability causes him to shout frequently. Because he made a lot of noise during a recent performance at the local cinema, the manager refuses to let him in a second time, as his behaviour makes it impossible for other people to watch the film. Excluding Barry may be within the law.



Charging more – A disabled person cannot be charged more for the same goods or services than anyone else. However, if a special service is provided or goods made which cost more in labour or materials, the disabled person can be charged more.

For example:

A person with a spinal injury may be charged more for a made-to-measure chair which has required more work than one straight from a showroom.

Protecting the fundamental nature of a business or service –

An adjustment does not have to be made that would fundamentally alter the nature of the service, profession or business.

For example:

A nightclub with low-level lighting is not required to adjust the lighting to accommodate customers who are partially sighted, if this would fundamentally change the atmosphere or ambience of the club.

Is there anything to stop a disabled person being given more favourable treatment?

No. A theatre manager can, for instance, offer people who are hard of hearing front stall seats at rear stall prices; football clubs can reserve pitch-side places for wheelchair users; and historic houses can offer concessionary prices for disabled people.



4. Buying or renting land or property

It is against the law to treat a disabled person less favourably when they are buying or renting land or property such as a house, a flat or a place to run a business. This covers most people involved in selling, letting or managing land or property, including local councils, housing associations, private landlords, and estate agents.

Some landlords, such as those who let out rooms in their own homes to six or fewer people (not counting relatives) are not included. The Act does not apply to owner-occupiers who do not use estate agents or advertise their home 'for sale'.

Discrimination takes place when:

A disabled person is refused the opportunity to buy or rent because of their disability.

For example:

Bruce has seen a 'to let' sign outside a ground floor flat without any steps, which looks right for his wheelchair. When he arrives at the letting agent's office, the woman behind the counter takes one look and tells him the flat wouldn't be suitable. The reasons she uses for taking this decision are related to Bruce's disability. This is unlawful.

Worse terms are offered.

For example:

Sally has schizophrenia. When talking to other tenants in the block of flats she's recently moved into, she's surprised to find the landlord has asked her to pay three times the deposit he's charged others to cover breakages. This will be unlawful if the landlord has asked for

the extra deposit because, for no good reason, he considers that because of her disability, Sally is more likely to break things.

Waiting lists are manipulated to a disabled person's disadvantage.

For example:

The Ratcliffe family, with a disabled daughter, were wondering why they've been waiting so long to be given a place to live by a letting agency. By chance they discover that the agency has an unwritten practice of keeping all disabled people at the bottom of its waiting list. This is unlawful.

Disabled people are prevented or restricted from using benefits and facilities such as shared areas for recreation.

For example:

Because of his severe facial disfigurement Ron has been asked not to use the small communal gym in a block of flats at busy times. This is unlawful.

A disabled person is evicted or placed at a disadvantage.

For example:

The O'Connells' eldest daughter can occasionally be noisy because of a disability. The landlord hands them an eviction notice, because he claims the other tenants in the block are being disturbed. The family has never had any objections from the other people and none of them has made a complaint. This is unlawful.

Consent is refused to sub-let to a disabled person.

For example:

Roy wants to sub-let a room in his rented house. He decides Mary is the most suitable tenant because she has a steady job. He knows

she had a mental illness in the past, but has fully recovered. On hearing of this, Roy's landlord tells him to find someone else, as he thinks, because of Mary's disability, this would be asking for trouble. This is unlawful.

Is it ever allowable to treat a disabled person less favourably?

There are a few circumstances when it is not possible to treat disabled people as favourably as others. They include:

- where less favourable treatment is necessary in order to avoid endangering the health and safety of any other person;
- where the disabled person is incapable of entering into a legally enforceable agreement or of giving informed consent;
- refusing a disabled person access to a benefit or facility such as a shared kitchen, if otherwise it would mean others could not use it;
- offering a different way into a facility, if this is necessary for them or others to gain access.

Can disabled people expect alterations to be made to property to make it more accessible?

No. People do not have to make alterations to permit access for those renting or buying their property.

Is there anything to stop disabled people being given more favourable treatment?

No. For instance, a local authority or housing association is entitled to put disabled people ahead of others on their housing list.

5. Employment

Naturally employers want the best person for the job. The Disability Discrimination Act does not interfere with this. It makes it against the law for an employer with 15¹ or more employees to discriminate against disabled employees or job applicants. Trade organisations such as trade unions and some professional bodies also have a duty not to discriminate.

Prison officers, firefighters, police officers, employees who work wholly outside Great Britain or Northern Ireland, members of the Armed Forces and employees who work on board ships, aircraft or hovercraft are not covered by the employment provisions of the Act.

Every aspect of the job is covered – including selection, doing the work, promotion, career development and redundancy or dismissal.

For example:

An employer prefers all employees to have a certain level of educational qualification. Jo has a learning disability which has prevented her from obtaining the preferred qualification. She is turned down for a job because she does not have that qualification. If that qualification is not necessary in order to do the job and she is otherwise the best candidate, then the employer will have discriminated unlawfully against her.

Making reasonable adjustments

It may be that the physical features of an employer's premises or the working arrangements put a disabled person at a substantial disadvantage compared with non-disabled people. If that is the case, the employer must take such steps as it is reasonable for him to have to take in the circumstances to prevent that disadvantage. This duty applies both to recruitment and to those currently employed. For example, if a reasonable adjustment could overcome any significant

¹ Previously 20 or more employees.

disadvantages, an employer would have to be able to justify not offering a job to a disabled person. Without such a reason, the employer is likely to have discriminated.

For example:

Ellen is an excellent word processor operator, but her arthritis means her typing is a little too slow to pass a local company's standard test. She suggested that a different design of keyboard would overcome the problem. The personnel manager agreed to appoint her and buy one. This was a reasonable adjustment.

What sort of adjustments might a disabled person find helpful for an employer to make?

Some examples follow.

Altering premises – Painting parts of an interior in contrasting colours to help a visually impaired worker to find their way around.

Transferring minor duties – Arranging for a person with dyslexia not to have to write the occasional letter if this were not essential to the job and could be given to someone else.

Transferring individuals – Moving an employee who develops mobility problems from an outdoor job to a desk job.

Altering working hours – Allowing someone to work different hours to fit in with the availability of a carer.

Changing the place of work – Moving the workstation of a wheelchair user from a difficult-to-reach third floor location to a much more accessible one on the ground floor.

Arranging extra training – Sending a visually impaired person to a course on using a computer with speech output.

Equipment changes – Providing a telephone with text display for use by a deaf person.

Changing instructions or manuals – Providing a braille version for a blind person or simplified instructions for someone with a learning disability.

When is it reasonable for an employer to have to make an adjustment?

That depends on all the circumstances involved, such as the cost in relation to the resources of the organisation, how effective it would be and the availability of any outside funding or practical assistance. Often an adjustment costs little or nothing, as in fitting brighter lights or rearranging a workplace layout.

From beginning to end

5.1 Recruitment and selection

It's unlawful to discriminate against a disabled person in the arrangements for deciding who should get the job, such as job descriptions and interviews. When drawing up a job description, employers should bear in mind that including requirements which have little to do with the actual work can lead to discrimination, as they may exclude people with certain disabilities who could do the job. For example, it is likely to be discriminatory to ask for a driving licence as a qualification for an office job involving a small amount of travelling, which a disabled person with mobility problems could do by other means, such as taking a taxi or catching a bus.

It's also against the law to rule anyone out simply because an employer happens to believe that a particular disability might make them unable to meet one of the job's requirements.

For example:

The manager of a messenger firm believes that Paul cannot be relied upon to be punctual – a key part of the job – because he has a learning disability. He ignores Paul's excellent record of time-keeping in his last job and turns him down. As the manager has refused to properly consider Paul's application, he has treated Paul

less favourably, for a reason related to his disability, than he would have treated someone without such a disability. The treatment cannot be justified and is therefore unlawful discrimination.

Because employers have a duty to make reasonable adjustments, when a disabled person is short-listed it's a good idea to discuss in advance any special arrangements that would help the candidate.

For example:

The personnel manager of an insurance company was well prepared for the arrival of Yasmin, who had told him in her application about her hearing impairment. He made sure his face was well-lit and was careful to face Yasmin directly and speak clearly to assist lip-reading, and he was happy to repeat questions.

The Disability Discrimination Act doesn't stop employers asking disabled candidates about their disability, but only if it is, or may be, relevant to the person's ability to do the job. Of course, the employer must not use any information provided to discriminate against the disabled person. Asking questions could also help employers foresee what changes, if any, might need to be made to enable the disabled person to do the job.



5.2 Doing the work

All aspects of doing a job come under the Act. These examples cover just some of them.

When they're starting a new job, people often need to have an induction course. Sometimes employers might need to tailor a course as a reasonable adjustment, for example allowing a newcomer with a learning disability to take a longer time or have the support of a helper.

An employer has to make reasonable adjustments to reduce any substantial disadvantage caused by the physical features of premises or the employment arrangements. For example, fixing handrails for someone who needs them to help in getting about might be reasonable for a firm to have to do, depending on all the circumstances. There may also need to be some flexibility in any terms and conditions that could put a disabled person at a substantial disadvantage.

For example:

After treatment for mental illness, Shah was able to find work again as a local government officer. However, his disability was aggravated by the stress of travelling in the rush hour on the underground, and this had an adverse effect on his work. Starting and finishing times were not important to the job and agreeing alternative times with his Head of Department removed the stress, and Shah's work improved as a result. Therefore, the adjustment solved the problem.

If someone already working for a firm becomes disabled, or a disabled employee's condition deteriorates, an employer must make any necessary reasonable adjustments. It's useful to talk to individuals about their needs and seek any necessary specialist advice.

For example:

Jane has developed multiple sclerosis, so her employer has arranged for her to move from her job as a shop assistant to fill a less physically demanding vacancy in the back office and receive the necessary training. They agreed between them that as time goes on, Jane can work part-time in order to reduce fatigue and receive outside medical treatment.

Disabled members of staff are entitled to any benefits such as canteens, social clubs and health care offered by the employer. If it is significantly more difficult for a disabled person to take advantage of a particular benefit because of an employer's arrangements or premises, the employer should make any necessary reasonable adjustment, such as reserving a parking space close to the social club entrance for a wheelchair user.

The Act inserts into every occupational pension scheme a 'non-discrimination' rule. This means that the trustees or managers of the scheme are prohibited from doing, or omitting to do, anything to members or non-members of the scheme that would be unlawful if done by an employer.

For example:

Trustees of a pension scheme would not be justified in excluding Sue simply because she had a visual impairment. That fact, in itself, would be no reason why she should not receive the same pension benefits as any other employee.

The duty to make a reasonable adjustment does not apply to occupational pension schemes or certain other benefits under some types of benefit schemes.

5.3 Career development

Employers must not discriminate against disabled employees in relation to any aspect of career development, for example, promotion,

transfer or training. If necessary, reasonable adjustments must be made to facilitate the career development of disabled people, for example, making a training venue more accessible for someone finding it difficult to move around.

The need to make reasonable adjustments also applies to providing opportunities for promotion, for example, giving someone with a visual or hearing impairment the opportunity to take a management course run by an appropriate voluntary organisation.

5.4 Ending employment

Ending the employment of a disabled person for a reason related to their disability would need to be justified. This would include showing that the reason for dismissal could not be removed by any reasonable adjustment – for example, where a disability makes it impossible for an employee to continue to do the main part of the job.

For example:

Paula's eyesight, essential to her job as a graphic designer, has been steadily deteriorating. Although modifications to her workstation enabled her to continue for a while, she has become totally blind. As Paula can no longer perform the main function of her job and there are no alternative vacancies to which she can be transferred, her employer would be justified in offering her early retirement on medical grounds.



6. Any complaints?

What should a disabled person do if discriminated against?

Firstly they may try and resolve the dispute with the person concerned. In doing this, they may wish to seek help, for example from their trade union or a local voluntary organisation, such as a local disability group or local advice centre.

Employment – If the complaint is about employment, the Advisory, Conciliation and Arbitration Service (ACAS) or, in Northern Ireland, the Labour Relations Agency (LRA) can make the services of a conciliation officer available at the request of either party. They will try to settle the dispute without the need for a complaint to go to an employment tribunal (industrial tribunal in Northern Ireland).

A disabled person wishing to make a complaint to a tribunal should obtain the booklet *How to apply to an Employment Tribunal* URN99/613 from a Jobcentre or a Citizens Advice Bureau. A booklet titled *The questions procedure* is also available from Jobcentres, which an individual can use to ask an employer's reasons for the treatment or failure to make reasonable adjustment, whether or not they wish to make a tribunal complaint.

The address and telephone number of the local Citizens Advice Bureau or Jobcentre can be found in the telephone book.

Goods and services – If the complaint is about goods, facilities or services, or land or property, and it cannot be resolved informally, then a disabled person can take their case to the county court (in Scotland, the sheriff court). They may wish to seek advice before taking this action.

A disabled person may wish to contact a solicitor to help with their case. Some solicitors work in law centres or advice agencies and offer free advice. Help may also be available from a local advice centre.

The address and telephone number of the local county court or sheriff court in Scotland, can be found under 'Courts' in the telephone book.

Who is liable?

Individual members of staff have responsibilities not to discriminate. Employers and service providers also need to be aware that they can be held responsible for what an employee does, unless they've taken all practicable steps to prevent discrimination. They can also be held responsible for anyone acting on their behalf, such as an agent or representative, unless that person is acting outside their authority. It's a manager's responsibility to make sure all staff know what actions may be against the law.

7. Additional information

What does the Act mean by a disabled person?

The Act says that someone has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The main meaning of long-term is lasting, or being likely to last, at least 12 months. And there has to be an effect in one of a number of areas listed in the Act. They are: mobility, manual dexterity, physical co-ordination, continence, ability to lift, carry or otherwise move everyday objects, speech, hearing or eyesight, memory or ability to concentrate, learn or understand, and perception of the risk of physical danger.

People with what are commonly known as learning disabilities or with long-lasting clinically well-recognised mental illnesses could clearly

also fit within this definition (depending on the particular effects on each individual). Yet it may not be immediately obvious whether some other conditions fit into this main definition. For example, people with some long-lasting or permanent conditions, such as arthritis, can experience periods without substantial effects. And some long-lasting or permanent conditions, such as multiple sclerosis, are likely to deteriorate over time until they have substantial effects, but may in the early stages only have very small effects.

Some long-lasting or permanent conditions, such as diabetes, can have their substantial effects greatly reduced or removed by medication or other treatment.

Severe disfigurements may have no effects at all.

The Act therefore includes provisions to ensure that these sorts of conditions generally count as disabilities, although the position in any individual case will depend on the precise facts.

In addition, regulations made under the Act ensure that a number of conditions (such as alcoholism or nicotine dependency) do not count as disabilities.

And, finally, the rights under the Act in the fields of employment, provision of goods, facilities and services, and the management, sale and letting of premises also apply to people who have had a disability in the past. Anyone who was registered disabled under the Disabled Persons (Employment) Act 1944 or the Disabled Persons (Employment) Act (Northern Ireland) 1945 both on 12 January 1995 and on 2 December 1996 will be regarded as having had a disability in the past if they do not in any case fall within the definition of the Act.

For practical help in employing disabled people and for help for disabled people in getting or keeping a job, contact the Employment Service's Disability Employment Advisors at your local Jobcentre.

Other publications

The following publications are available free from the DDA Helpline.

All are available in alternative formats. The address and contact numbers of the Helpline are printed below.

The Disability Discrimination Act 1995 – What Service Providers Need to Know (DL150)

The Disability Discrimination Act 1995 – An Introduction for Small and Medium-sized Businesses: Rights of Access to Goods, Facilities and Services (DLE9)

The Disability Discrimination Act 1995 – What Employers Need to Know (DL170)

The Disability Discrimination Act 1995 – What Employees and Job Applicants Need to Know (DLE3)

Employing Disabled People – A Good Practice Guide for Managers and Employers (DLE7)

If you would like to order any of these publications, please write to:

DDA Helpline
Freepost MIDO2164
Stratford-upon-Avon
CV37 9BR

or telephone the DDA Helpline on 0345 622 633 or 0345 622 644 (textphone). The line also offers a faxback service on 0345 622 611 and an automated service on 0345 622 688. These publications can also be ordered through, or downloaded from, the internet at www.disability.gov.uk

Codes of Practice

The Government has published the following publications, which give practical guidance to employers, service providers and people involved in selling, letting or managing property. They must be taken into account by courts and tribunals where relevant.

- *Code of Practice – Rights of Access – Goods, Facilities, Services and Premises*

Price £12.95 ISBN 0 11 271055 7

(For Northern Ireland ISBN 0 337 08453 X)

- *Code of Practice for the Elimination of Discrimination in the Field of Employment Against Disabled Persons or Persons who have had a Disability*

Price £9.95 ISBN 0 11 270954 0

(For Northern Ireland ISBN 0 337 09435 7)

- *Code of Practice – Duties of Trade Organisations to their Disabled Members and Applicants*

Price £9.95 ISBN 0 11 271071 9

(For Northern Ireland ISBN 0 337 09462 4)

- *Guidance on Matters to be Taken into Account in Determining Questions Relating to the Definition of Disability*

Price £7.50 ISBN 0 11 270955 9

(For Northern Ireland ISBN 0 337 09462 4)

These publications are available from Stationery Office bookshops.

They can be ordered on the numbers below:

**Telephone orders: 0870 600 5522 (For Northern Ireland:
028 9023 8451)**

Fax orders: 0870 600 5533 (For Northern Ireland: 028 9023 5401)

The Codes of Practice are also available in alternative formats. They can be ordered through the DDA Helpline. A version of the Codes of Practice can be downloaded from the internet at www.disability.gov.uk



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